



The State of New Hampshire  
**Department of Environmental Services**



**Michael P. Nolin**  
Commissioner

April 26, 2004

Mr. Alan Klotzbier  
APK Construction  
PO Box 93  
Marlborough, New Hampshire 03455

**CERTIFIED MAIL (7099 3400 0003 0688 2232  
RETURN RECEIPT REQUESTED  
NOTICE OF PAST VIOLATION**

**RE Improper Asbestos Removal**

Dear Mr. Klotzbier:

On February 11, 2004, the New Hampshire Department of Environmental Services, Air Resources Division ("DES"), received information that you had demolished and burned the remains of a fire-damaged house owned by John Fitzpatrick and located at 229 Back Ashuelot Road, Winchester, NH (the "Property").

On February 12, 2004, DES personnel went to the Property to determine if asbestos containing material ("ACM") had been disturbed during the demolition project, and to determine conformance with provisions of RSA 141-E and the NH Admin. Rules Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution*, Env-A 1800, *Asbestos Management and Control*, and RSA 125-C. DES personnel photographed ash and debris from the demolition and took several samples of suspected ACM for laboratory analysis. The lab results confirmed that the disturbed material was in fact ACM.

The purpose of this letter is to notify you of the violations discovered during the inspection conducted on February 12, 2004. The specific violations are as follows:

Env-A 1803.03 requires each facility operator to provide written notification to the division, the EPA Regional Office, and the city/town health officer, as applicable to the worksite location, in accordance with Env-A 1803.06 at least 10 working days before any demolition activity begins. This notification shall be required regardless of the amount of ACM, if any, that is contained in the facility. DES never received written notification from either you or Mr. Fitzgerald.

Env-A 1804.01 requires that before undertaking any demolition or renovation, each facility operator shall provide for an inspection, by a competent person, of the affected portion(s) of the facility for the presence of ACM. Env-A 101.80 defines a "competent person" as someone capable of identifying asbestos hazards and who has completed, at a minimum, a training course for asbestos inspectors. DES never received any information indicating that an inspection for ACM was performed.

Env-A 1805, *Work Practice Requirements* contains specific provisions pertaining to the proper handling, removal and disposal of ACM. In particular, Env-A 1805.02 requires personnel involved in any major asbestos abatement projects to be licensed and certified. In addition, Env-A 1805 requires that the operator of a facility at which major asbestos abatement activity will occur, take steps to prevent exposure to asbestos fibers during removal, including isolating the work area and using wet removal methods. You are not a licensed asbestos abatement contractor in the State of New Hampshire and did not follow required work practice standards during the removal of the ACM.

Env-A 1001.05 outlines the type of burning that is permissible without authorization from DES. Specifically, Env-A 1001.05 (d) allows periodic on-site burning by the landowner of brush, leaves and untreated wood from the construction or demolition of a building, provided the material originates on-site. The burning of materials other than brush and untreated wood is a violation of Env-A 1000

Env-A 101.54 defines "brush" as tree tops, limbs, saplings and tree cuttings that are five inches in diameter or less.

- Env-A 101.286 defines "untreated wood" as any timber, board or sawn dimensional lumber, which has not been treated, coated or preserved.

No further action related to the listed violations is required. However, please be advised that if the presence of ACM is suspected, an inspection for ACM should be conducted prior to initiating any future renovation or demolition activities. DES believes that you can avoid the improper disturbance of ACM and the health hazards and liability that are associated with exposure to asbestos by complying with Env-A 1800, *Asbestos Management and Control*.

If you believe that DES has cited these violations in error or have any questions or additional information regarding this matter, please contact Mr. Steve Cullinane, Asbestos Program Manager, Compliance Bureau, Air Resources Division, at (603) 271-1373 or Joseph Ritz, Compliance Bureau, Air Resources Division, at (603) 271-1391.

Sincerely,  
A large, stylized handwritten signature in black ink, appearing to read 'P. Monroe', is written over the word 'COPY'.

Pamela G. Monroe  
Compliance Bureau Administrator  
Air Resources Division

PGM/jwr

Enclosure: List of asbestos abatement contractors  
Env-A 1800

cc: G. Hamel, Legal Unit Administrator  
R. Kurowski, EPA Region 1  
M. Guilfooy, NHDES  
W. Kelly, Jr., Chairman, Winchester Board of Selectmen  
G. Morse, Winchester Forest Fire Warden  
B. Stewart, DRED  
AFS # 3300083333